

REMARKS

The following remarks and the above amendments are submitted to address all issues in this case, and to put this case in condition for allowance. The claims are amended solely to better define the subject matter of the instant invention. New claims add no new matter and are supported by the Specification and Figures as originally filed. After the above amendment, application claims 1-9 are pending in the application. Application claims 1 and 5 are independent.

Applicant has studied the Office Action mailed September 5, 2006 and has the following remarks.

IDS

Applicant provides herewith a PTO form 1449 listing the references on the documents previously provided as requested by the Examiner.

Specification

Applicant has amended the "Cross-Reference to Related Applications" section to reflect the updated status of the referenced applications.

35 U.S.C. §102

The Examiner rejected claims 1-5 as anticipated by Yagi et al. (US 4,895,533). Applicant respectfully traverses these rejections on the grounds that Yagi fails to show all elements of the claims, as amended.

Without acknowledging the correctness of the prior rejection, Applicant has amended claims 1 and 5 to provide an adapter in combination with a medical device including a respiratory tube. It is abundantly clear that due to the difference in the nature of the devices of the current claims and the Yagi device, that Yagi fails to show this combination of elements as Yagi makes no mention of a medical device including a respiratory tube. As Yagi therefore fails to show all elements of the instant claims, it cannot anticipate.

Further, and simply for completeness, as the purpose of Yagi is completely different from the purpose of the claimed devices, it would not be obvious to use the device of Yagi in combination with a medical device having a respiratory tube.

Double Patenting

Without admission as to the correctness of the double patenting rejection in light of United States Patent 6,705,321, Applicant includes herewith a Terminal Disclaimer which moots the Examiner's double patenting rejection.

Conclusion

In light of the above remarks, Applicant believes there are no further issues regarding the patentability of the pending claims and respectfully requests the Examiner withdraw his rejections and allow all pending claims so that this case can pass on to issue.

Applicant includes herewith the fee for filing of an IDS after first action and the fee for filing a terminal disclaimer. Applicant believes no additional fees are due in conjunction with this filing, however, the Commissioner is authorized to credit any overpayment or charge any

deficiencies necessary for entering this amendment, including any claims fees and/or extension fees to/from our **Deposit Account No. 50-0975**.

If any questions remain, Applicant respectfully requests a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,
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